

From: Gervais, Gregory
Sent: Friday, June 06, 2014 9:33 AM
To: Grandinetti, Cami
Cc: Sheldrake, Beth; Rochlin, Kevin; Fonseca, Silvina
Subject: RE: Help
Attachments: SBTribes Reponse to EPA Letter_Sept 2011.pdf

Categories: Lepic transfered

So maybe EPA never replied to the 9/15/11 letter from Chmn Small (attached). Makes me wonder if it's affiliated in CMS all the way back to the Bob P and Mathy letter that you just emailed me (the one referenced in the Small letter I just attached). Probably a good time to table this search; maybe Beth or Kevin has it at their fingertips and can get it Monday.

Thanks for spending the time looking for it. Not exactly the most productive use of our collective efforts, but very much appreciate it.

-Greg

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Greg Gervais, P.E.
Chief, Technology Assessment Branch | EPA OSWER OSRTI TIFSD
1200 Pennsylvania Ave NW, MC 5203P | Washington, DC 20460
703-603-0690 (o) | gervais.gregory@epa.gov | epa.gov/superfund | clu-in.org

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-----Original Message-----
From: Grandinetti, Cami
Sent: Friday, June 06, 2014 12:20 PM
To: Gervais, Gregory; Fonseca, Silvina
Subject: RE: Help

Okay--I found a letter from Bob P and Mathy from 2011--hopefully this is what you're looking for. The attachment includes a laundry list of email messages--scroll down to the bottom to find the actual letter.

Cami Grandinetti
Program Manager, Remedial Cleanup Program USEPA
1200 6th Ave, Suite 900
ECL-113
Seattle, Wa. 98101
206-553-8696 (desk)
206-390-8890 (cell)
206-553-0124 (fax)

-----Original Message-----
From: Gervais, Gregory
Sent: Friday, June 06, 2014 8:15 AM
To: Grandinetti, Cami; Fonseca, Silvina
Subject: RE: Help

No we have the Bob P letter and attachment. See my other email

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Greg Gervais, P.E.
Chief, Technology Assessment Branch | EPA OSWER OSRTI TIFSD
1200 Pennsylvania Ave NW, MC 5203P | Washington, DC 20460
703-603-0690 (o) | gervais.gregory@epa.gov | epa.gov/superfund | clu-in.org

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-----Original Message-----

From: Grandinetti, Cami
Sent: Friday, June 06, 2014 11:14 AM
To: Fonseca, Silvina
Cc: Gervais, Gregory
Subject: RE: Help

I'm assuming you'll want the attachment mentioned in the Bob P letter? I'm looking for that too.

Cami Grandinetti
Program Manager, Remedial Cleanup Program USEPA
1200 6th Ave, Suite 900
ECL-113
Seattle, Wa. 98101
206-553-8696 (desk)
206-390-8890 (cell)
206-553-0124 (fax)

-----Original Message-----

From: Fonseca, Silvina
Sent: Friday, June 06, 2014 8:02 AM
To: Grandinetti, Cami
Cc: Gervais, Gregory
Subject: Re: Help

Thanks Cami, gorgeous here as well. You could be on a bus with 50 3rd graders headed to Baltimore Aquarium.

Appreciate your help.

From: Grandinetti, Cami
Sent: Friday, June 6, 2014 10:57:49 AM
To: Fonseca, Silvina
Cc: Gervais, Gregory
Subject: RE: Help

Beth is out today--and so is Lori Cohen--everybody is out--I'm acting for the office! It's beautiful here today! Why am I here?!

Let me see what I can find. I'll get back to you.

Cami Grandinetti
Program Manager, Remedial Cleanup Program USEPA
1200 6th Ave, Suite 900
ECL-113
Seattle, Wa. 98101
206-553-8696 (desk)
206-390-8890 (cell)
206-553-0124 (fax)

-----Original Message-----

From: Fonseca, Silvina
Sent: Friday, June 06, 2014 7:50 AM
To: Grandinetti, Cami
Cc: Gervais, Gregory
Subject: Help

Hi Cami, we are meeting with the Shoishone Bannock Tribes on Tuesday on the independant review. We are looking for a copy of the Bob P letter from 2 years ago and asked Beth for a copy. Have not heard back do you know if she is coming in today? If not could you help Greg Gervais and I track it down?

The SHOSHONE-BANNOCK TRIBES

FORT HALL INDIAN RESERVATION
PHONE (208) 478-3700
FAX # (208) 237-0797



FORT HALL BUSINESS COUNCIL
P.O. BOX 306
FORT HALL, IDAHO 83203

September 15, 2011

Dennis J. McLerran
Regional Administrator, Region 10
U.S. Environmental Protection Agency
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

Mathy Stanislaus
Assistant Administrator, OSWER
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (5101T)
Washington, D.C. 20460-0001

Dear Administrators McLerran and Stanislaus:

This letter is in response to your joint letter of July 11, 2011 to the Shoshone-Bannock Tribes regarding EPA's proposed interim remedial action for the FMC Operable Unit of the Eastern Michaud Flats Superfund Site. The Tribes remain adamant in their view that EPA's proposed interim remedy of capping is short-sighted: it does not address the full extent of the contamination at the site but merely covers it up so that future generations will have to bear the consequences. For that reason, the Tribes oppose your statement that "the proposed remedy could end up as the final remedy." We expect that EPA remains open to confronting the issues posed by the elemental phosphorus and other contaminants currently being allowed to remain at the site, and we are providing this response to facilitate EPA working with us to address these longer-term concerns.

The Tribes do not object to the initiation of storm water controls and groundwater treatment because we recognize that these actions will help reduce adverse current impacts from the site. However, neither these proposed actions nor the proposed temporary capping of areas with buried reactive or ignitable waste address the underlying contamination at the site, as already evidenced by the phosphine emissions and other issues that have arisen with both the RCRA and the CERCLA ponds. The Tribes therefore appreciate EPA's willingness to continue to explore possible treatment options for the hazardous substances at the site at the same time as EPA implements the interim remedy. With this goal in mind, we have the following responses to your letter:

- 1) We accept EPA's offer of establishing an independent review panel to consider treatment options at the site. We would like to have meetings or conference calls with EPA to establish the membership of the panel and the procedures for submitting information to the panel and for the panel to conduct reviews. Please let us know as soon as possible who at EPA will work with us on this issue.
- 2) We also would like EPA to commit certain of its personnel and resources to further researching and exploring possible treatment methodologies other than those already included in the Supplemental Feasibility Study (the only treatment methodology examined in any depth was caustic hydrolysis). We think that EPA's consideration of possible treatment options should be ongoing, and not left to peremptory consideration at five-year reviews. These options should include incremental excavation and treatment if necessary.
- 3) In the same vein, we accept EPA's offer of providing experts to assist the Tribes in researching and evaluating possible treatment options. As you know, the Tribes have provided EPA with a number of papers and examples of treatment options and believe that many of these options deserve further consideration for use at the FMC site. The Tribes do not, however, have the resources to devote to further analysis of treatment options while still carrying out all their other program responsibilities. EPA could provide experts (possibly on loan to the Tribes through an IPA) or grants for the Tribes to hire their own expert consultants to assist in conducting such research and analysis.
- 4) EPA has also offered to train tribal members to oversee and conduct monitoring at the site and to "otherwise enhance[e] the Tribes' capacity to oversee or conduct monitoring and maintenance." Current tribal staff has full knowledge and capability to conduct monitoring at the site; in fact, it was the Tribes who identified cyanide in leachate water, improper application of caustic hydrolysis in Pond 17, and phosphine emissions at the site. The best assistance EPA could provide would be funds supporting the hiring of additional tribal members to assist in monitoring activities.
- 5) Moreover, the Tribes' input as to the monitoring parameters that will be established for the site must be considered, perhaps through the independent review panel that will be established. Monitoring parameters should not be left up to FMC, the responsible party, to determine. In particular, monitoring must be adequate to determine effects on soils, microorganisms in the soil, and various plant and animal life, as indicated by your letter (proposing monitoring "to identify any potential phosphine releases or soil chemistry disturbances").
- 6) Finally, the interim remedial action should make clear that future treatment will not be precluded due to the caps that are being proposed. The Tribes also support EPA's proposal to treat the Tribes' Soil Cleanup Standards as applicable or relevant and appropriate requirements under Section 121(d)(2)(A)(ii) of CERCLA.

We would like to set up a time to meet with EPA to discuss how we will implement these actions. It is vital to have a schedule with specific timelines for each of these actions in order to ensure that they will take place. Please have your staff contact Ms. Jill Grant (Nordhaus Law Offices) at 202.530.1270 to arrange for a meeting.

Sincerely yours,



Nathan Small
Chairman, Fort Hall Business Council

Cc: Michelle Depass, Assistant Administrator - OITA
Scott Fulton, General Counsel
Dan Opalski, Region 10 ECL
Lori Cohen, Region 10 ECL
Allyn Stern, Region 10 ORC
Jim Woods, Region 10 Senior Tribal Policy Advisor
Fort Hall Business Council
Land Use Commission
Kelly C. Wright, EWMP
Jill Grant, Nordhaus Law Firm
Susan Hanson, EWMP